



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Served: March 12, 2003

**Joint Application of American Airlines, Inc. and British Airways
Plc for Code-Share and Exemption Authorizations
under 14 CFR Part 212 and 49 U.S.C. §40109
Docket OST-2002-13861**

NOTICE ESTABLISHING PROCEDURAL SCHEDULE

On November 18, 2002, American Airlines, Inc. and its affiliates and British Airways Plc and its affiliates submitted a joint application for exemption authority under 49 U.S.C. §40109 and statements of authorization under 14 CFR Part 212 to the extent necessary to engage in certain reciprocal code-share operations (including authority to integrate this authority with the joint applicants' existing certificate, foreign air carrier permit, and exemption authorities, as applicable).¹

By letter dated January 16, 2003, the Department directed the joint applicants to submit additional data and evidentiary information to complete the application. The letter stated that, upon the Department's determination that the application was complete, the Department would establish a procedural schedule for comments and such other responsive pleadings as may be necessary to act on the application.

On February 28, 2003, the joint applicants submitted the additional data and evidentiary material and concurrently filed a motion under 14 C.F.R. §302.12 of our regulations requesting confidential treatment for a portion of this material. The joint applicants maintain that the documents for which they seek confidential treatment are proprietary, commercially sensitive, and confidential in nature, which qualifies for being withheld from public disclosure. The joint applicants ask that access to this material be limited to counsel and outside experts for interested parties.²

As an initial matter, we find that the application is now substantially complete and that we can proceed to establish a procedural schedule for comments to the application. In this regard, we

¹ The affiliates specifically named by American in the joint application are TWA Airlines LLC, American Eagle Airlines, Inc., and Executive Airlines, Inc. d/b/a/ American Eagle. The affiliates specifically named by British Airways in the joint application are British Airways CitiExpress Limited and British Airways CitiExpress (Isle of Man) Limited.

² We will rule by subsequent order on the merits of the joint applicants' motion for confidential treatment under §302.12.

will require that answers to the application be filed no later than March 21, 2003, and that replies be filed no later than March 25, 2003.

In order to provide all interested parties sufficient time to analyze adequately and comment fully on all material in the public and non-public record, under conditions agreed to by the joint applicants and imposed by the Department in comparable circumstances, we will grant immediate interim access to all documents covered by the joint applicants' motion for confidential treatment under §302.12 to counsel and outside experts for interested parties who file appropriate affidavits with the Department in advance. Moreover, consistent with earlier determinations, at the Dockets facility Parties will be permitted to make copies of the documents for use by persons who have filed confidentiality affidavits.³ We also find it appropriate to grant interim access to any subsequent materials filed in this Docket under a motion for confidential treatment under §302.12 to counsel and outside experts for interested parties who file appropriate affidavits with the Department in advance, unless the party filing the motion objects.

We expect all affidavits to state, at a minimum, that (1) the affiant is counsel for an interested party or an outside independent expert providing services to such a party; (2) the affiant will use the information only for the purpose of participating in this proceeding; and (3) the affiant will disclose such information only to other persons who have filed a valid affidavit in Docket OST-2002-13861. Affiants and interested parties must understand and agree that any pleading or other filing that includes or discusses information contained in the covered documents must itself be accompanied by a motion requesting confidential treatment under §302.12. Affidavits must be filed in Docket OST-2002-13861 with the Department of Transportation, Dockets, Room PL-401, 400 Seventh Street, S.W., Washington, D.C., 20590.

Affiants having filed affidavits may examine the documents at the Department of Transportation at the Dockets location. Affiants must present a stamped copy of the affidavit filed with the Department of Transportation before examination of the documents. Immediately after the completion of any judicial review of our final decision in this docket, or the expiration of the 60-day period within which a person may petition for judicial review, all persons who have filed confidentiality affidavits in this proceeding are hereby directed to file a further affidavit stating that all copies of the applicants' confidential materials have been destroyed or returned to the Department of Transportation.

³ See Notice dated January 21, 2003, p.1, Docket OST-2003-14202 (Asiana-United request for approval of and antitrust immunity for an Alliance Agreement); and Notice dated March 21, 2002, p.1, Docket OST-2002-11842 (Delta-KAL-Air France-Alitalia-CSA request for approval of and antitrust immunity for Alliance Agreements).

We will serve this Notice on American Airlines, Inc.; British Airways Plc; Continental Airlines, Inc.; Delta Air Lines, Inc.; Northwest Airlines, Inc.; United Air Lines, Inc. and British Midland Airways Limited d/b/a bmi british midland; and the St. Louis Parties (the City of St. Louis and the St. Louis Airport Commission).

By:

READ C. VAN DE WATER
Assistant Secretary for Aviation
and International Affairs

(SEAL)

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